

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**THE BANK OF NEW YORK MELLON TRUST
COMPANY, N.A.,**

Interpleader Plaintiff,

v.

**M&T BANK CORPORATION and
FEDERAL DEPOSIT INSURANCE CORPORATION,**
Interpleader Defendants.

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DATE FILED: 5/12/10

10 CV 1685 (SAS)

SCHEDULING ORDER

Conference Date: May 12, 2010

SHIRA A. SCHEINDLIN, U.S.D.J.:

WHEREAS, the Court issued an Order for a Conference in accordance with Fed .R. Civ. P. 16(b) on March 18, 2010 (the Order); and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following proposed scheduling order as required by the Order:

(1) A pre-trial conference was held before the Honorable Shira A. Scheindlin on May 12, 2010. The parties appeared as follows:

Mordecai Geisler
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Attorneys for The Bank of New York Mellon Trust Company, N.A.

S. Robert Schrager
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Attorneys for Manufacturers and Traders Trust Company a/k/a M&T Bank

Richard P. Sobiecki
BAKER BOTTS L.L.P.
Attorneys for FDIC

(2) The issue in this matter is which of the Interpleader Defendants is entitled to the monies presently deposited with the Court by the Interpleader Plaintiff as trustee.

The Mechanics and Farmers Savings Bank FSB 87-1 Mortgage Pass-Through Certificate Trust (the "Trust") was established pursuant to a Pooling and Servicing Agreement between Mechanics and Farmers Savings Bank FSB as originator and servicer, and Citytrust as trustee. BNY Mellon is the present successor Trustee.

Pursuant to the Pooling and Servicing Agreement, Mechanics and Farmers established a separate investment account (the "Reserve Fund") to which amounts were to be deposited and withdrawn in accordance with the Pooling and Servicing Agreement.

On August 9, 1991, after the execution of the Pooling and Servicing Agreement, the FDIC was appointed Receiver for Mechanics and Farmers ("FDIC-Receiver"). FDIC-Receiver subsequently sold certain assets of Mechanics and Farmers to The Ramapo Bank ("Ramapo"). The FDIC asserts that, on August 1, 1999, the FDIC, in its Corporate capacity ("FDIC-Corporate"), purchased all assets of the Mechanics and Farmers Receivership estate that were not previously disposed of by FDIC-Receiver. M&T Mortgage Corporation became successor servicer of the Trust, pursuant to a Mortgage Servicing Purchase and Sale Agreement between M&T, as purchaser, and Ramapo, as seller (the "Purchase and Sale Agreement").¹

Upon termination of the Trust, M&T requested that BNY Mellon, as the successor Trustee, remit the balance of the Reserve Fund proceeds to M&T. FDIC-Corporate, as successor-in-interest to Mechanics and Farmers, requested that BNY Mellon remit the balance of the Reserve Fund to FDIC-Corporate upon termination of the Trust.

The balance of the Reserve Fund in dispute is approximately \$674,855.83.

(3) Schedule of Discovery:

- (a) The parties are required to provide the initial disclosures as required by Fed. R. Civ. P. 26(a)(1) on or before June 30, 2010. *A*
- (b) Requests for Documents shall be served by all parties by ~~August 15, 2010~~ *June 11*. The items sought shall be produced to the extent not objected to, and objections, if any, shall be stated, on or before ~~October 1, 2010~~ *Oct. 29*. *July 16*
- (c) All discovery is to be completed by ~~December 31, 2010~~ *Nov. 29*.
- (e) The Interpleader Defendants will exchange their pre-trial order matters by ~~January 14, 2011~~ *Nov. 29*.
- (f) The parties will submit a pre-trial order in a form conforming with the Court's instructions together with trial briefs and proposed findings of fact and conclusions of law by ~~January 31, 2011~~ *Nov 29*.
- (g) A final pre-trial conference pursuant to Fed. R. Civ. P. 16(d) will be held *Nov. 15, 2010*.

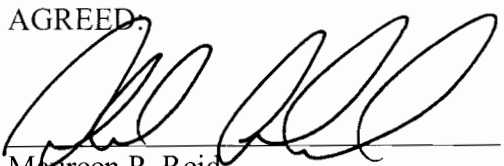
(4) The parties do not anticipate that expert discovery will be offered.

¹ M&T Mortgage Corporation merged into Manufacturers and Traders Trust Company a/k/a M&T Bank, named herein as M&T Bank Corporation, effective January 1, 2007, and M&T is successor-by-merger to M&T Mortgage Corporation as servicer under the Pooling and Servicing Agreement.

(5) The parties anticipate that the trial will be before the Court and will last three (3) days.

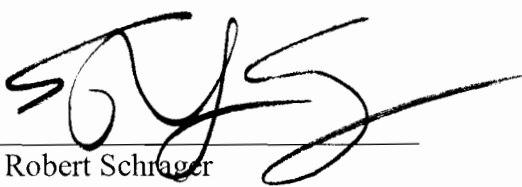
(6) This Scheduling Order may be altered or amended only upon a showing of good cause not foreseeable at the time of the conference or when justice so requires.

AGREED:


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SO ORDERED:


SHIRA A. SCHEINDLIN.
U.S.D.J.

5/12/10